



**DECISION**

12627 *Faintain*  
**THE COMPTROLLER GENERAL**  
**OF THE UNITED STATES**  
WASHINGTON, D. C. 20548 *Page II*

FILE: B-196710

DATE: January 24, 1980

MATTER OF: Dunn Electric Company *DLG03682*

**DIGEST:**

Binding contract did not result from Government's acceptance of bid where contracting officer should have been on notice of possible error in bid and did not request verification by bidder.

*[Request for]*

The Veterans Administration (VA) has forwarded a request by Dunn Electric Company (Dunn) for reformation of contract No. V506C-446-79 for the removal and replacement of two generators and associated equipment at the VA Medical Center in Ann Arbor, Michigan, *DLG03683* on the basis of an alleged mistake in Dunn's bid discovered by the contractor after award. For the reason set forth below, we believe that the contract should be reformed.

Item I involved the removal and replacement of a 75 KW generator with a 180/185 KW one and of a 60 KW generator with a 75 KW one. Item II required the removal and replacement of the 75 KW generator only. Award was to be made for item I unless the low bid exceeded the funds available, in which case award would be made for item II.

Dunn's bid of \$69,888 for item I and \$40,220 for item II was the only bid received, and a contract was awarded to the firm for item I. Immediately thereafter, Dunn asserted that it had made a mistake in its bid. Dunn contended that its bid on item I of \$69,888 was for the removal and replacement of the 75 KW generator only, and that its bid on item II of \$40,220 was for the removal and replacement of the 60 KW generator. Dunn thus alleged that its intended bid for item I was the total of the two amounts, or \$110,108, and that the correct bid for item II was \$69,888. In support of the claim, Dunn provided its workpapers; a supplier's quotation upon which Dunn alleged to have based the bid showing the cost to

~~008392~~ 111369

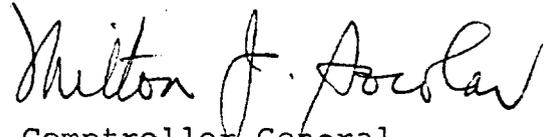
Dunn of a 180 KW generator alone (i.e., without the associated equipment or labor) as \$35,295 and a 75 KW generator alone as \$28,163; and comparable quotations from other suppliers furnished to Dunn after the contract award.

When a unilateral mistake in bid is alleged after the award of a contract, our Office will grant relief only if the contracting officer was on actual or constructive notice of the error prior to award, and failed to take proper steps to verify the bid. In that situation, no valid and binding contract is consummated by the Government's acceptance. In determining whether there was a duty to verify bid prices, we have stated that the test is whether under the facts and circumstances of the particular case there were any factors which reasonably should have raised the presumption of error in the mind of the contracting officer. Philadelphia Corrugated Container Company, B-194662, May 24, 1979, 79-1 CPD 375.

The record indicates that when Dunn's bid was submitted to the VA's Engineering Service for review, the person who assisted in preparing the solicitation was not present. Consequently, another individual, who was not thoroughly familiar with the procurement, conducted the review, and failed to recognize that the sole Government estimate that had been prepared for the project was \$69,000 for the replacement of one generator only. The reviewer merely noted that Dunn's bid of \$69,888 was close to the Government "estimate," and on that basis recommended acceptance of the bid.

We believe that a proper review of Dunn's bid by the VA would have caused the contracting officer to suspect that a mistake had been made in view of the fact that the bid for the replacement of two generators was close to the Government estimate for the replacement of one generator. See Dietary Products Division of American Hospital Supply Corporation, B-184500, August 11, 1975, 75-2 CPD 103. In fact, the VA admits as much in its submission to our Office. Accordingly, since Dunn was not requested to verify the bid, the Government's acceptance did not result in a binding contract. Levin Metals, Inc., B-195358, August 23, 1979, 79-2 CPD 149.

In such circumstances, a contract is reformed to reflect the intended bid price, which must be clearly established by the contractor. Charles E. Weber & Associates, B-186267, May 12, 1976, 76-1 CPD 319. The evidence submitted by Dunn in support of its request establishes the intended bids on items I and II as discussed above, i.e., \$110,108 and \$69,888, respectively. In addition, the record indicates that the intended bid on item I exceeded the available VA funds, and that the VA would have accepted the intended bid on item II and is willing to have the contract reformed accordingly. In view thereof, and since there were no other bids in response to the solicitation, the contract may be reformed to reflect the removal and replacement of a 75 KW generator with a 180 KW one for \$69,888.



For The Comptroller General  
of the United States